



INTERIOR BOARD OF INDIAN APPEALS

Jefferson County, Oregon, Board of Commissioners v.
Acting Northwest Regional Director, Bureau of Indian Affairs

40 IBIA 50 (07/12/2004)

Related Board case:
40 IBIA 52



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ARLINGTON, VA 22203

JEFFERSON COUNTY, OREGON,
BOARD OF COMMISSIONERS,
Appellant,

v.

ACTING NORTHWEST REGIONAL
DIRECTOR, BUREAU OF INDIAN
AFFAIRS,
Appellee.

: Order Docketing and
: Dismissing Appeal
:
:
:
: Docket No. IBIA 04-114-A
:
:
:
: July 12, 2004

Appellant Jefferson County, Oregon, Board of Commissioners (County) filed a notice of appeal, seeking review of a decision of the Acting Northwest Regional Director, Bureau of Indian Affairs (Regional Director). The Regional Director approved the acquisition by the United States of 104.61 acres of land in Jefferson County, Oregon, referred to as the "Lake Billy Chinook Property," in trust for the Confederated Tribes of the Warm Springs Reservation (Tribe). For the reason discussed below, the Board of Indian Appeals (Board) docketed the appeal, but dismisses it for lack of jurisdiction because it is untimely.

The Regional Director's letter to the Tribe approving the trust acquisition was dated April 26, 2004, and the Regional Director sent notice of that decision and the decision itself to the County in a letter dated April 27, 2004. The Regional Director's April 27 letter to the County properly advised it of its right to appeal to the Board within 30 days from the County's receipt of the decision. The County's notice of appeal indicates that it received the Regional Director's letter on April 29, 2004. The County mailed its notice of appeal to the Board on June 30, 2004, which the County concedes in its notice of appeal is beyond the 30-day deadline for filing an appeal.

Under 43 C.F.R. § 4.332(a), a notice of appeal from administrative action by a Regional Director must be filed with the Board within thirty days after an appellant receives the decision from which the appeal is taken. The County contends that its late filing was due to an inadvertent oversight. The 30-day time period, however, is jurisdictional. Id.; see Snohomish County, Washington v. Acting Northwest Regional Director, 40 IBIA 44 (2004). As such, it is not subject to waiver by the Board.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board docketed this appeal, but dismisses it for lack of jurisdiction. 1/

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Colette J. Winston
Administrative Judge

1/ On July 9, 2004, the Board received a motion from the Regional Director to dismiss this appeal for lack of jurisdiction. Because the facts relevant to the jurisdictional issue are undisputed, the Board declined to solicit responses to the Regional Director's motion, and instead dismisses this appeal on its own motion.